

No. 05-672  
IN THE SUPREME COURT OF THE STATE OF MONTANA  
2006 MT 186

---

SARAH HALL,	)	
	)	
Plaintiff, Respondent and Cross-Appellant,	)	
	)	OPINION
v.	)	and
	)	ORDER
JOHN KIRCHER and BOYNE USA, INC.,	)	
a Michigan corporation,	)	
	)	
Defendants, Appellants and Cross-Respondents.	)	

---

¶1 Counsel for the parties to this appeal have filed a stipulation for dismissal. Their stipulation asks us to remand this case to the Eighteenth Judicial District Court “with instructions to dismiss the case with prejudice[.]”

¶2 Rule 36, M.R.App.P., allows for the voluntary dismissal of an appeal upon stipulation of the parties. Neither Rule 36 nor any other rule of appellate procedure contemplates this Court’s remand of a case, upon the parties’ stipulation, with instructions for the trial court to dismiss, as was requested here, or with instructions for the trial court to approve the parties’ stipulation, as we sometimes have been asked to do in the past. *See, e.g., Peterson v. Montana Schools Group Insurance Authority*, Cause No. DA 06-0363 *dismissal order* (July 26, 2006).

¶3 We have, in the past, remanded cases upon stipulation of the parties for the trial court's consideration of whether to approve a settlement agreement. We will continue to do so. The stipulation presently before us, however, appears to condition our dismissal upon a remand to the District Court with instructions.

¶4 THEREFORE, IT IS ORDERED that the stipulation for dismissal is DENIED, without prejudice.

The Clerk is directed to mail true copies of this order to all counsel of record.

DATED this 9<sup>th</sup> day of August, 2006.

/S/ KARLA M. GRAY  
/S/ JOHN WARNER  
/S/ PATRICIA COTTER  
/S/ W. WILLIAM LEAPHART  
/S/ JIM RICE